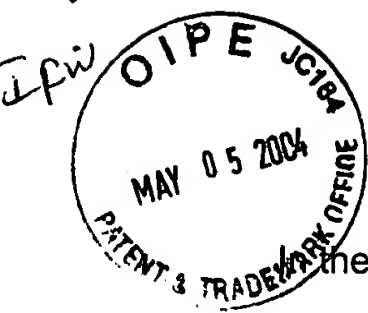


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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

the Application of:

ANDERSON and GALIBERT

Docket No.: 2852-C

Serial No: 09/688,459

Examiner: Eileen B. O'Hara

Filed: October 13, 2000

Date of Notice of Allowance: 3/26/04

For: ISOLATED DNA MOLECULE ENCODING RANK LIGAND

**REQUEST FOR RECONSIDERATION UNDER 37 CFR 1.705(B) OF  
THE PATENT TERM ADJUSTMENT DETERMINATION  
INDICATED IN THE NOTICE OF ALLOWANCE**

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Applicants have received the Notice of Allowance for application number 09/688,459, which was mailed on March 26, 2004. The Notice of Allowance indicates that the Patent Term Adjustment to date is 356 days. Applicants believe this calculation to be in error and request reconsideration of the Patent Term Adjustment determination. Applicants believe that the correct patent term adjustment should be 402 days as set forth below.

According to 37 CFR 1.702(a)(1), the Office is required to mail at least one of a notification under 35 USC 132 or a Notice of Allowance under 35 USC 151 not later than 14 months after the date on which the application was filed under 35 USC 111 (a). Under 37 CFR 1.703(a)(1), the period of adjustment under 1.702(a) includes:

The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) . . . and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first[.]

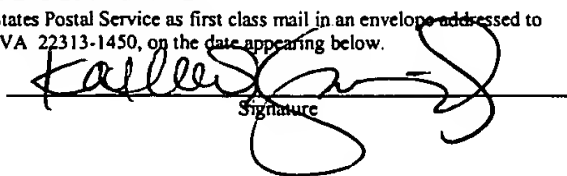
Application number 09/688,459 was filed on October 13, 2000, and the Office mailed its first notification under 35 USC 132 on December 18, 2001. This delay results in 5 days of additional patent term.

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date appearing below.

April 30, 2004

Date

  
Signature

According to 37 CFR 1.702(c), the term of an original patent should be adjusted if the issuance of the patent was delayed due to interference proceedings under 35 USC 135(a). Under 37 CFR 1.703(c)(2), the period of adjustment includes:

The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension[.]

In the instant case, the Office mailed out a Notice of Suspension of prosecution on July 15, 2002. On September 30, 2003, the Office mailed out a new Office Action indicating that the application was no longer suspended. Therefore, the period of adjustment from the date prosecution in the application was suspended to the date the suspension was terminated is 442 days, not 396 days as indicated by the USPTO PAIR Patent Term Adjustment History.

Therefore, if no further adjustments were required, the correct patent term adjustment under 37 CFR 1.702 would be 447 days.

Applicants, however, failed to respond to the Office Action of December 18, 2001 within the three month time period set forth in 37 CFR 1.704(b). A response was received by the USPTO on April 30, 2002. This delay resulted in a loss of 43 days of patent term.

Applicants also failed to respond to the Office Action mailed October 14, 2003 within the three month time period set forth in 37 CFR 1.704(b). A response was received by the USPTO on January 16, 2004. This delay resulted in a loss of 2 days of patent term.

Therefore, the correct patent term adjustment under 37 CFR 1.704 would be 447-45, or 402 days.

Because this application is not subject to any terminal disclaimer, the overall patent term adjustment to date therefore should be 402 days. Applicants respectfully request correction of the patent term adjustment determination in view of the above facts.

Applicants hereby authorize the Commissioner to charge the required fee of \$200.00 to Deposit Account No. 09-0089, for filing an application for patent term adjustment under 37 CFR 1.705. A copy of this document is enclosed for accounting

purposes. The Commissioner is further authorized to charge any additional fees required in connection with the enclosed papers, or to credit any overpayment, to Deposit Account No. 09-0089.

Respectfully submitted,



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DATE: APRIL 30, 2004

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